

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1175

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-36-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) This section applies to criminal actions ~~for felonies under IC 35-42~~, for:

- (1) **an offense listed in IC 11-8-8-4.5(a);**
- (2) neglect of a dependent (IC 35-46-1-4);
- (3) **battery (IC 35-42-2-1) if the victim is:**
 - (A) **less than eighteen (18) years of age; or**
 - (B) **an endangered adult (as defined in IC 12-10-3-2);** and
- ~~for~~
(4) **attempts of those felonies (IC 35-41-5-1); the crimes listed in subdivisions (1) through (3).**

(b) If a motion is made to postpone a trial or other court proceeding that involves an offense listed in subsection (a), the court shall consider whether a postponement will have an adverse impact upon **an endangered adult (as defined in IC 12-10-3-2) or a child who is less than ten (10) sixteen (16) years of age and who:**

- (1) is the alleged victim of an offense listed in subsection (a); or
- (2) will be a witness in the trial.

SECTION 2. IC 35-40-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. A victim has the right to be:

- (1) treated with fairness, dignity, and respect; **and**
- (2) **free from intimidation, harassment, and abuse;**

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throughout the criminal justice process.

SECTION 3. IC 35-40-5-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11. (a) This section applies only to a child less than sixteen (16) years of age who is the victim or alleged victim of a sex offense (as defined in IC 11-8-8-5.2).**

(b) As used in this section, "defense counsel" includes an agent of:

- (1) the defense counsel; or**
- (2) the defendant.**

(c) After charges are filed against a defendant, if defense counsel would like to interview a child described in subsection (a), the defendant or defense counsel must contact the prosecuting attorney. The child has the right under section 3 of this chapter to confer with the prosecuting attorney before the interview occurs. The prosecuting attorney may not instruct the child not to speak with defense counsel.

(d) If the parties are unable to agree to the terms of the interview, the parties may petition the court for a hearing on the terms of the interview prior to the interview taking place. The court shall review the terms suggested by the parties and consider the age of the child, any special considerations, and the rights of victims provided by IC 35-40-5-1 in setting reasonable terms for the interview.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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